



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R07-OAR-2015-0581; FRL-9949-68-Region 7]**

**Approval of Missouri's Air Quality Implementation Plans;  
Regional Haze State Implementation Plan Revision and 2013 Five-  
Year Progress Report**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve the Missouri State Implementation Plan (SIP) revision submitted to EPA by the State of Missouri on August 5, 2014, documenting that the State's existing plan is making adequate progress to achieve visibility goals by 2018. The Missouri SIP revision addressed the Regional Haze Rule (RHR) requirements under the Clean Air Act (CAA or Act) to submit a report describing progress in achieving reasonable progress goals (RPGs) to improve visibility in Federally designated areas in nearby states that may be affected by emissions from sources in Missouri. EPA is taking final action to approve Missouri's determination that the existing Regional Haze (RH) SIP is

adequate to meet the visibility goals and requires no substantive revision at this time.

**DATES:** This final rule is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2015-0581. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or at the Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. The Regional Office's official hours of business are Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Amy Algoe-Eakin, Environmental Protection Agency, Air Planning and Development Branch, 11201

Renner Boulevard, Lenexa, Kansas 66219 at 913-551-7942, or by email at [algoe-eakin.amy@epa.gov](mailto:algoe-eakin.amy@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document “we,” “us,” or “our” refer to EPA. This section provides additional information by addressing the following:

- I. Background
- II. Summary of SIP Revision
- III. Final Action
- IV. Statutory and Executive Order Reviews

## **I. Background**

On September 29, 2015, (80 FR 58410), EPA published a notice of proposed rulemaking (NPR) for the State of Missouri. In the NPR, EPA proposed approval of Missouri's progress report SIP, a report on progress made in the first implementation period towards RPGs for Class I areas that are affected by emissions from Missouri sources. This progress report SIP and accompanying cover letter also included a determination that Missouri's existing regional haze SIP requires no substantive revision to achieve the established regional haze visibility improvement and emissions reduction goals for 2018.

States are required to submit a progress report in the form of a SIP revision every five years that evaluates progress towards the RPGs for each mandatory Class I Federal area within

the state and in each mandatory Class I Federal area outside the state which may be affected by emissions from within the state. See 40 CFR 51.308(g). In addition, the provisions under 40 CFR 51.308(h) require states to submit, at the same time as the 40 CFR 51.308(g) progress report, a determination of the adequacy of the state's existing regional haze SIP. The first progress report SIP is due five years after submittal of the initial regional haze SIP. The Missouri Department of Natural Resources (MDNR) submitted its regional haze SIP on August 5, 2009, and a supplement on January 30, 2012, in accordance with 40 CFR 51.308(b).<sup>1</sup>

On February 14, 2014, MDNR provided to the Federal Land Managers a revision to Missouri's SIP reporting on progress made during the first implementation period toward RPGs for Class I areas in the state and Class I areas outside the state that are

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<sup>1</sup> On June 26, 2012, EPA finalized a limited approval of Missouri's August 5, 2009, regional haze SIP to address the first implementation period for regional haze (77 FR 38007). In a separate action, published on June 7, 2012 (77 FR 33642), EPA finalized a limited disapproval of the Missouri regional haze SIP because of the State's reliance on the Clean Air Interstate Rule to meet certain regional haze requirements, which EPA replaced in August 2011 with the Cross-State Air Pollution Rule (CSAPR) (76 FR 48208 (Aug. 8, 2011)). In the aforementioned June 7, 2012, action, EPA finalized a Federal Implementation Plan (FIP) for Missouri to replace the State's reliance on CAIR with reliance on CSAPR. Following these EPA actions, the D.C. Circuit issued a decision in *EME Homer City Generation, L.P. v. EPA* ("EME Homer City"), 696 F. 3d 7 (D.C. Cir. 2012), vacating CSAPR and keeping CAIR in place pending the promulgation of a valid replacement rule. On April 29, 2014, the U.S. Supreme Court reversed the D.C. Circuit opinion vacating CSAPR, and remanded the case for further proceedings. *EME Homer City*, 572 U.S. 134 S. Ct. 1584. In the interim, CAIR remained in place. On October 23, 2014, the D.C. Circuit granted EPA's motion to lift the stay on CSAPR. Order of October 23, 2014, in *EME Homer City*, D.C. Cir. No. 11-1302. EPA issued an interim final rule to clarify how EPA will implement CSAPR consistent with the D.C. Circuit's order. 79 FR 71663 (December 3, 2014) (interim final rulemaking). Subsequent to the interim final rulemaking, EPA began implementation of CSAPR on January 1, 2015.

affected by Missouri sources. Missouri has two Class I areas, Mingo National Wildlife Refuge (Mingo) and Hercules Glades Wilderness Area (Hercules Glades). Missouri also hosts an additional Interagency Monitoring of Protected Visual Environments (IMPROVE) monitoring site, located at El Dorado Springs.<sup>2</sup> Notification was published on MDNR's Air Pollution Control Program website on April 28, 2014. A public hearing was held on held at the St. Louis Regional Office on Thursday, May 29, 2014.

On August 5, 2014, MDNR submitted the five year progress report SIP to EPA. This progress report SIP and accompanying cover letter also included a determination that the state's existing regional haze SIP requires no substantive revision to achieve the established regional haze visibility improvement and emissions reduction goals for 2018. EPA proposed approval of Missouri's progress report SIP on the basis that it satisfies the requirements of 40 CFR 51.308(g) and (h).

## **II. Summary of SIP Revision**

On August 5, 2014, MDNR submitted a revision to Missouri's regional haze SIP to address progress made toward RPGs of Class I areas in the state and Class I areas outside the state that

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<sup>2</sup> The El Dorado Springs IMPROVE monitoring site is a Protocol monitoring site that is maintained by MDNR to also measure visibility impairment in Missouri, but it is not located in a Federal Class I area. It was established to aid in determining impacts to portions of the country where no Class I areas exist.

are affected by emissions from Missouri's sources. This progress report SIP also included a determination of the adequacy of the state's existing regional haze SIP. Missouri has two Class I areas within its borders, and maintains an additional IMPROVE monitoring site. MDNR utilized particulate matter source apportionment (PSAT) techniques for photochemical modeling conducted by the Central Regional Air Planning Association (CENRAP) to identify two Class I areas in nearby Arkansas potentially impacted by Missouri sources: Upper Buffalo Wilderness Area (UBWA) and Caney Creek Wilderness Area (CCWA).

The provisions in 40 CFR 51.308(g) require a progress report SIP to address seven elements. In the NPR, EPA proposed to approve the SIP as adequately addressing each element under 40 CFR 51.308(g). The seven elements and EPA's proposed conclusions in the NPR are briefly summarized below.

The provisions in 40 CFR 51.308(g) require progress report SIPs to include a description of the status of measures in the regional haze implementation plan; a summary of the emissions reductions achieved; an assessment of the visibility conditions for each Class I area in the state; an analysis of the changes in emissions from sources and activities within the state; an assessment of any significant changes in anthropogenic emissions

within or outside the state that have limited or impeded visibility improvement progress in Class I areas impacted by the state's sources; an assessment of the sufficiency of the regional haze implementation plan to enable states to meet reasonable progress goals; and a review of the state's visibility monitoring strategy. As explained in detail in the NPR, EPA proposed Missouri's progress report SIP addressed each element and therefore satisfied the requirements under 40 CFR 51.308(g).

In addition, pursuant to 40 CFR 51.308(h), states are required to submit, at the same time as the progress report SIP revision, a determination of the adequacy of their existing regional haze SIP and to take one of four possible actions based on information in the progress report. In its progress report SIP, Missouri determined that its regional haze SIP is sufficient to meet its obligations related to the reasonable progress goals for Class I areas affected by Missouri's sources. The State accordingly provided EPA with a negative declaration that further revision of the existing regional haze implementation plan was not needed at this time. See 40 CFR 51.308(h)(1). As explained in detail in the NPR, EPA proposed to determine that Missouri had adequately addressed 40 CFR

51.308(h) because the visibility data trends at the Class I areas impacted by Missouri's sources and the emissions trends of the largest emitters in Missouri of visibility-impairing pollutants both indicate that the reasonable progress goals for 2018 for these areas will be met or exceeded. Therefore, in our NPR, EPA proposed to approve Missouri's progress report SIP as meeting the requirements of 40 CFR 51.308(g) and (h).

### **III. Final Action**

EPA is taking final action to approve Missouri's regional haze five-year progress report and SIP revision, submitted August 5, 2014, as meeting the applicable regional haze requirements as set forth in 40 CFR 51.308(g) and (h).

### **IV. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:



- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States.

EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 18, 2016.

Mark Hague,  
Regional Administrator,  
Region 7.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as set forth below:

**PART 52-APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et. seq.*

**Subpart AA-Missouri**

2. In §52.1320, the table in paragraph (e) is amended by adding the entry “(70) State Implementation Plan (SIP) Revision for the Attainment and Maintenance of National Ambient Air Quality Standards for Regional Haze (2014 Five-Year Progress Report)” in numerical order to read as follows:

**§52.1320 Identification of plan.**

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EPA-Approved Missouri Nonregulatory SIP Provisions

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
* * * * *				
(70) State Implementation Plan (SIP) Revision for the Attainment and Maintenance of National Ambient Air Quality Standards for Regional Haze (2014 Five-Year Progress Report)	Statewide	8/5/14	[Insert the date of publication in the Federal Register] [Insert Federal Register citation]	[EPA-R07-OAR-2015-0581; FRL-9949-68-Region 7].

[FR Doc. 2016-17785 Filed: 7/29/2016 8:45 am; Publication Date: 8/1/2016]